

SCOTTSDALE

CITY COUNCIL MEETING



*****AMENDED*** AGENDA (EXECUTIVE SESSION, ITEMS 20A, 20B & 20C ADDED)**

COUNCIL

Mary Manross, Mayor

Wayne Ecton

Robert W. Littlefield

Cynthia Lukas

Ned O'Hearn

David Ortega

Tom Silverman

Monday, October 20, 2003

MARKED AGENDA

4:00 P.M.

City Council Special Meeting

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Blvd. - **4:02 P.M.**

Roll Call – **COUNCILMAN LITTLEFIELD ABSENT**

1. Brief update on status of negotiations FOR ACQUISITION OF A PORTION OF THE FOLLOWING PARCEL FOR INCLUSION IN THE McDOWELL SONORAN PRESERVE: 780 acres of land located between Bell Road and Union Hills Road, at approximately 104th Street. A.R.S. 38-431.03 (A)(3), -(A)(4) and -(A)(7). Contact: Robert Cafarella 480-312-2577, (rcafarella@scottsdaleaz.gov) - **CITY MANAGER JAN DOLAN**
2. MOTION TO RECESS INTO EXECUTIVE SESSION for: - **OK – 6/0**
 - a. Discussion with representatives of the Public Body and discussion and consultation with City attorneys for legal advice and to consider the City's position and instruct its representatives and attorneys regarding negotiations for acquisition of a portion of the following parcel for inclusion in the McDowell Sonoran Preserve: 780 acres of land located between Bell Road and Union Hills Road, at approximately 104th Street. A.R.S. 38-431.03 (A)(3), -(A)(4) and -(A)(7). Contact: Robert Cafarella 480-312-2577, (rcafarella@scottsdaleaz.gov)

Adjourn – 4:04 P.M.

City Council Executive Session

Immediately Following 4:00 P.M. City Council Special Meeting

Call to Order – City Hall Kiva Conference Room

Executive session for any of the purposes listed on the agenda for the City Council Special Meeting scheduled for 4:00 P.M., above.

Adjourn

5:00 P.M. CITY COUNCIL MEETING

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **5:00 P.M.**

Roll Call – **ALL PRESENT**

Pledge of Allegiance – **SCOUT TROOP #1627 FROM CHEYENNE SCHOOL**

Invocation - **PASTOR PATRICK SHELTER FROM THE GLASS AND GARDEN COMMUNITY CHURCH**

Presentations/Information Updates

2003 Community Heroes - **MAYOR MANROSS AND DEVON ENGEL FROM GENERAL DYNAMICS**

Announcement – **MAYOR MANROSS CONGRATULATED DON LOGAN ON HIS APPOINTMENT TO THE GOVERNORS AFRICAN-AMERICAN ADVISORY COMMITTEE AND FOR RECEIVING THE NAACP ROY WILKINS AWARD**

Public Comment – **NICK LUONGO – STATED HIS BELIEF THAT THE SCOTTSDALE AIRPORT HAS TO BE CLOSED AND ANNOUNCED HE IS RECRUITING CITIZENS TO JOIN IN HIS EFFORTS TO CLOSE THE AIRPORT; LEON SPIRO – QUESTIONED WHY THE MINUTES FOR THE COUNCIL MEETING ON SEPTEMBER 9TH DIDN'T REFLECT HIS EMAIL COMMENTS AND SPOKE IN OPPOSITION TO THE CITY ABANDONMENTS.**

Minutes – **OK – 7/0**

SPECIAL MEETINGS

September 24, 2003

September 29, 2003

CONSENT AGENDA ITEMS 1 – 20C

1. **Amendment to First Amended and Restated Restaurant and Catering Concession Agreement. – OK - C**

Request: Authorize an Amendment to the Restaurant and Catering Agreement with Pegasus Restaurant and Catering, Inc. for an initial term effective through August 2004, with one-year extensions allowable contingent on both parties consent. This Amendment increases the “Percentage Use Fees” paid by Concessionaire whenever they provide food and beverage catering and concessions services as outlined in the Amendment.

Related Policies, References: This Amendment is to the City of Scottsdale Contract No. 960214A Dated 12/23/96.

Staff Contact(s): Brad Gessner, WestWorld General Manager (480) 312-6825
bgessner@scottsdaleaz.gov

CONSENT AGENDA

Monday, October 20, 2003
Page 3 of 9

2. **Contract for Legal Services in connection with City of Scottsdale v. Phillip P. Lovell, Superior Court Case No. CV2000-017992. - OK - C**

Request: Adopt Resolution No. 6380 authorizing the Mayor to execute Contract No. 2003-102A-COS, an outside counsel contract renewal in a maximum amount of twenty-five thousand dollars (\$25,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Phillip P. Lovell, Superior Court Case No. CV2000-017992, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6380

C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

3. **Contract for Legal Services in connection with City of Scottsdale v. Bruce Corey, et. al, Superior Court Case No. CV2000-017994. - OK - C**

Request: Adopt Resolution No. 6381 authorizing the Mayor to execute Contract No. 2003-166-COS, an outside counsel contract renewal in a maximum amount of Sixty Thousand Dollars (\$60,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Bruce Corey, et. al, Superior Court Case No. CV2000-017994, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6381

Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

4. **Contract for Legal Services in connection with City of Scottsdale v. Alpine Valley Limited Partnership, Superior Court Case No. CV2001-012496. - OK - C**

Request: Adopt Resolution No. 6382 authorizing the Mayor to execute Contract No. 2003-167-COS, an outside counsel contract renewal in a maximum amount of Forty Thousand Dollars (\$40,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Alpine Valley Limited Partnership, Superior Court Case No. CV2001-012496, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6382

Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

5. **Contract for Legal Services in connection with City of Scottsdale v. Bartlett View Properties II Limited, Superior Court Case No. CV2001-012495. - OK - C**

Request: Adopt Resolution No. 6383 authorizing the Mayor to execute Contract No. 2003-168-COS, an outside counsel contract renewal in a maximum amount of Forty Thousand Dollars (\$40,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Bartlett View Properties II Limited, Superior Court Case No. CV2001-012495, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6383

C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

6. Design Arsenic Treatment Demonstration Project using partial funding from a U.S. Environmental Protection Agency grant. - OK - C

Request: Adopt Resolution No. 6378, authorizing the Water Resources Department to accept the Arsenic Treatment Demonstration Project matching grant from the U.S. Environmental Protection Agency for \$433,700.

Related Policies, References:

- a. City of Scottsdale Water Resources Master Plan, approved by City Council on October 15, 2001.
- b. Engineering Services Contract No. 2002-139-COS, approved by City Council on November 18, 2002.
- c. US Congress Appropriations Act of 2003.

Staff Contact(s): David M. Mansfield, Water Resources General Manager, dmansfield@ScottsdaleAZ.gov, (480) 312-5681; Joe Gross, Water Resources Director, jgross@ScottsdaleAZ.gov, (480) 312-5628

7. Construction Bid Award for Construction of two Groundwater Monitoring Wells near existing Aquifer Storage and Recovery (ASR) Well Site No. 122. - OK - C

Request: Authorize Construction Bid Award No. 04PB021 to Rainbow Drilling, the lowest responsive bidder, at their lump sum base bid of \$148,620.00, for the construction of two groundwater monitoring wells near ASR Well No. 122 to ensure compliance with State monitoring requirements.

Related Policies, References:

- Arizona Groundwater Management Act of 1980.
- 2001 City of Scottsdale Water Resources Master Plan.
- On November 18, 2002, City Council approved Engineering Services Contract No. 2002-137-COS for implementation of an ASR demonstration project at existing City Well Nos. 122 and 41. This contract will provide construction of monitoring wells required for regulatory compliance during ASR activities at Well No. 122.

Staff Contact(s): David M. Mansfield, Water Resources General Manager, dmansfield@ScottsdaleAZ.gov, (480) 312-5681; Marshall Brown, Hydrogeologist mpbrown@scottsdaleaz.gov (480) 312-5683

8. WestWorld Paid Parking Vendor/Concession Agreement - OK - C

Request: Adopt Resolution No. 6390 authorizing Vendor/Concession Agreement No. 2003-169-COS to Professional Event Management, L.L.C., (ProEm) to administer the paid parking program during special events at WestWorld Equestrian and Special Event Facility for an initial term of five years with an extension of another five-year term if mutually agreed upon. Vendor/Concessionaire management fee will be 8% of gross revenue collected, and their rates for staff and equipment will be as outlined in their bid proposal (Attachment No. 2).

Staff Contact(s): Brad Gessner, WestWorld General Manager (480) 312-6825, bgessner@scottsdaleaz.gov

CONSENT AGENDA

Monday, October 20, 2003
Page 5 of 9

9. Magnums Bar Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) State liquor license for an existing establishment that is currently operating with a series 6 license.

Location: 2623 N Scottsdale Rd

Reference: 70-LL-2003

Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

10. Benihana Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant/sushi bar located in the Promenade shopping center.

Location: 16403 N Scottsdale Rd

Reference: 71-LL-2003

Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

11. Papago Inn Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) State liquor license for an existing bar located within a hotel.

Location: 7017 E McDowell Rd

Reference: 72-LL-2003

Staff Contacts: Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

12. Loco Patron Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a vacant location which previously operated under the business name VooDoo Lounge.

Location: 4228 N Scottsdale Rd

Reference: 73-LL-2003

Staff Contacts: Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

CONSENT AGENDA

Monday, October 20, 2003

Page 6 of 9

13. Blue Wasabi Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant/sushi bar location.

Location: 20751 N Pima Rd Ste 110

Reference: 74-LL-2003

Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

14. The Salty Seniorita Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a vacant building which previously operated with a series 12 license under the business name Whiskey Creek Steakhouse.

Location: 3636 N Scottsdale Rd

Reference: 75-LL-2003

Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

15. Z Tejas Grill Liquor License - OK - C

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for an existing establishment currently operating with a series 12 (restaurant) liquor license.

Location: 7014 E Camelback Rd

Reference: 26-EX-2003

Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov; Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

16. DC Ranch Parcels 5.2 & 5.3 Final Plat - OK - C

Request: Approve the Final Plat for DC Ranch Parcels 5.2 and 5.3 to construct 8 residential lots on a 22-acre parcel.

Location: East of Thompson Peak Parkway and South of Windgate Pass

Reference: 22-PP-2001

Staff Contact(s): Tim Curtis, Project Coordination Manager, (480) 312-4210, tcurtis@ScottsdaleAZ.gov; Kroy Ekblaw, Planning and Development Services General Manager, (480) 312-7064, kekblaw@ScottsdaleAZ.gov

17. Pinnacle Vista Final Plat - OK - C

Request: Approve the Final Plat for 6 residential lots with amended development standards, on private internal streets (tracts) on a 26.5 +/- acre parcel.

Location: SWC 114th St. & Oberlin

Reference: 21-PP-2002

Staff Contact(s): Al Ward, Senior Planner, (480) 312-7067, award@ScottsdaleAZ.gov; Kroy Ekblaw, Planning and Development Services General Manager, (480) 312-7064, kekblaw@ScottsdaleAZ.gov

CONSENT AGENDA

Monday, October 20, 2003

Page 7 of 9

18. Desert Mountain Cactus Use Permit - OK - C

Request: Approve a conditional use permit for an alternative concealment wireless communication facility (30 ft tall stealth saguaro cactus) on a 26 +/- acre parcel located at 39730 N Cave Creek Road with Open Space Environmentally Sensitive Lands District (O-S ESL) zoning.

Location: 39730 N Cave Creek Rd

Reference: 22-UP-2003

Staff Contact(s): Tim Curtis, Project Coordination Manager, (480) 312-4210, tcurtis@ScottsdaleAZ.gov;

Kroy Ekblaw, Planning and Development Services General Manager, (480) 312-7064, kekblaw@ScottsdaleAZ.gov

19. Engineering Services Contracts for the design of Intelligent Transportation System Improvements along Pima Road, the Indian Bend Wash, Shea Blvd & the Arizona Canal - OK - C

Request: Authorize the following contracts:

- Engineering Services Contract No. 2003-155-COS with ITS Engineers & Constructors, Inc, in the amount of \$337,877 for the design of intelligent transportation system improvements on Pima Road- Indian School Road to Via Linda and Indian Bend Wash-Indian School Rd. to McDowell Rd.
- Engineering Services Contract No. 2003-159-COS with DKS Associates in the amount of \$291,007 for the design of intelligent transportation system improvements along the Arizona Canal-Pima Road to Oak Street and Shea Blvd.-Scottsdale Rd. to 96th Street.

Related Policies, References:

- Design Concept Report Pima Road-June 2003
- Design Concept Report- Shea Blvd: Scottsdale to Pima August 2002
- Design Concept Report- Indian Bend Wash- June 2003
- ITS Master Plan- July 2003

Staff Contact(s): Al Dreska, Capital Project Management Administrator, (480) 312-5555, adreska@scottsdaleaz.gov; Douglas G. Cullinane, P.E., Sr. Project Manager, (480) 312-2681, dcullinane@scottsdaleaz.gov

20. Construction Bid Award for Water Distribution System Improvements – Group 1 (56th St. & Dixileta, Apache Peak Reservoir, and 64th St & Pinnacle Vista). - OK - C

Request: Authorize Construction Bid Award No. 04PB008 to Blucor Contracting, Inc., the lowest responsive bidder, at their unit price bid of \$382,704.56 for the construction of Water Distribution System Improvements - Group 1 (Vicinity of 56th Street and Dixileta, Apache Peak Reservoir, and 64th Street and Pinnacle Vista).

Staff Contact(s): Al Dreska, Capital Project Management Administrator, (480) 312-5555, adreska@scottsdaleaz.gov, Alison Tymkiw, Project Manager, (480) 312-7985, atymkiw@ScottsdaleAZ.gov

CONSENT AGENDA

Monday, October 20, 2003

Page 8 of 9

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20A. Funds forwarding agreement with the Salt River Pima Maricopa Indian Community (SRPMIC) for the purpose of conveying \$24,000 in SRPMIC revenue sharing grant funds to Living Well Traditionally Program and \$7,000 to the American Indian Program at Scottsdale Community College. – OK w/CHANGES - C

Request: Adopt Resolution No. 6397 (Attachment 1) to authorize Agreement No. 2003-173-COS (Attachment 2) that will enable the City to accept and appropriate \$31,000 from Salt River Pima Maricopa Indian Community (SRP-MIC) This IGA is in accordance with Proposition 202, ARS 5-601 and will assist the SRP-MIC in conveying \$24,000 of SRP-MIC funds to twelve student stipends for the Living Well Traditionally program for diabetes prevention and \$7,000 of SRP-MIC funds for the purchase of computer equipment for the American Indian Program at Scottsdale Community College. The FY 02/03 Grants Budget included budget for this grant.

Related Policies, References: Proposition 202; ARS 5-601

Staff Contact(s): Steve Olson, Government Relations Director, 312-2423, solson@scottsdaleaz.gov

20B. Financial Advance to the Scottsdale Cultural Council for preparation of the former IMAX Theater located at 4301 N. Scottsdale Road for live theater performances. – OK – 6/1 (R.L.)

Request: Authorize Agreement No. 2003-172-COS approving an advance of \$150,000 to the Scottsdale Cultural Council for preparation of the former IMAX Theater (“Theater”) for production of MENOPAUSE, The MUSICAL and authorize the use of the Community Arts Trust Fund for that purpose.

Staff Contact(s): William Exham, Community Services General Manager, (480) 312-2377
bexham@scottsdaleaz.gov

20C. Adopt Resolution 6395 authorizing city defense and indemnification of the City Manager in new lawsuit filed by former City Police Chief. – OK - C

Request: Authorization for the City to pay for the defense and indemnification of the City Manager, Jan Dolan, in the lawsuit by Douglas L. Bartosh against the City of Scottsdale, City Council Members, and the City Manager, in the U.S. District Court for the District of Arizona, Case No. CV’03-1986-PHX-EHC.

Related Policies, References: S.R.C. Section 2-179.

Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov; (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

Regular Agenda begins on the following page

Monday, October 20, 2003

Page 9 of 9

21. City of Scottsdale Streets Master Plan – OK - C

Request: Consider adoption of Resolution 6377, accepting the Streets Master Plan as the official street plan for the City of Scottsdale.

Staff Contact(s): John C. Little, Transportation General Manager, (480) 312-2539, jlittle@scottsdaleaz.gov; Michelle Korf, Transportation Planning Director, (480) 312-2638, mkorf@scottsdaleaz.gov; Aaron Iverson, Transportation Planner, (480)-312-7637, aiverson@scottsdaleaz.gov

Public Comment – LYLE WURTZ – STATED HIS OPINION THAT COUNCIL MEMBERS SHOULD NOT STATE THEIR POSITION ON AN ITEM UNTIL AFTER PUBLIC TESTIMONY

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action will be taken on these items.

City Manager's Report - NONE

Mayor and Council Items - NONE

Adjournment – 7:18 P.M.

Executive Sessions authorized by Arizona Revised Statutes 38-431.03 in the Kiva Conference Room, City Hall, at 4:00 P.M., during or immediately following the 5:00 P.M. Meeting. Executive Sessions are posted at least twenty-four hours prior to such meetings.